IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORP.,	§	No. 2:06CV-165 (DF)
	§	Hon. David J. Folsom
Plaintiff	§	
	§	JURY TRIAL DEMANDED
vs.	§	
	§	
CITY NATIONAL CORPORATION; and CITY NATIONAL BANK,	§	
	§	
Defendants.	§	
	§	

UNOPPOSED MOTION TO CONSOLIDATE CASES

COMES NOW defendants City National Bank and City National Corporation (collectively, "City National Bank"), and with the agreement of plaintiff DataTreasury Corporation ("DataTreasury"), respectfully submit this Unopposed Motion to Consolidate Cases (the "Unopposed Motion"). In support of this Unopposed Motion, City National Bank states the following:

1. On February 24, 2006, DataTreasury filed a patent infringement lawsuit in a case captioned *DataTreasury Corporation v. Wells Fargo & Co., et al.*, No. 5:06cv72 (the "Wells Fargo Litigation"). DataTreasury filed the above-captioned action against City National Bank on April 18, 2006, alleging infringement of U.S. Patent Nos. 5,910,988, 6,032,137, 5,265,007, and 5,717,868 (the "City National Bank Litigation"). In the Wells Fargo Litigation, DataTreasury alleges infringement of the same patents in the City National Bank Litigation, plus two related patents, against over 50 defendants, most of which are financial institutions and their holding companies.

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2. Under Rule 42(a) of the Federal Rules of Civil Procedure, a court may consolidate "actions involving a common question of law or fact [that] are pending before the court." This Court has "broad discretionary authority to consolidate cases in the interest of efficiency and judicial economy." *Pittman v. Mem. Herman Healthcare*, 124 F. Supp. 2d 446, 449 (S.D. Tex. 2000) (consolidating cases sua sponte).

3. Consolidation is appropriate here because the City National Bank Litigation and the Wells Fargo Litigation involve closely related questions of law and fact. All of the patents-in-suit in the City National Bank Litigation are asserted in the Wells Fargo Litigation. In fact, City National Bank was originally a defendant in the Wells Fargo Litigation. DataTreasury filed a request to dismiss City National Bank without prejudice from the Wells Fargo Litigation on April 19, 2006 (which was entered as an order of the Court on April 20, 2006), and filed a separate action against City National Bank only because DataTreasury wanted to include additional allegations relating to City National Bank's alleged relationship with Small Value Payments Company, without having to prepare and serve an amended complaint in the Wells Fargo Litigation. Both City National Bank and DataTreasury agree that consolidation would serve to maximize the Court's resources and avoid waste.

4. On June 9, 2006, this Court issued its Notice Of Scheduling Conference, Proposed Deadlines For Docket Control Order, And Discovery Order ("Scheduling Conference Order") in the City National Bank Litigation. City National Bank respectfully submits that the Court should vacate the Scheduling Conference Order so that City National Bank will be subject to the orders entered in the Wells Fargo Litigation upon consolidation.

5. This Unopposed Motion is made without prejudice to any arguments advanced by either City National Bank or DataTreasury in any pending motion in either the City National Bank Litigation or the Wells Fargo Litigation..

6. Pursuant to the foregoing, City National Bank, with the agreement of DataTreasury, respectfully requests that this Court: (1) consolidate the City National Bank Litigation with the Wells Fargo Litigation; and (2) vacate the Scheduling Conference Order.

Respectfully submitted,

/s/ David I. Gindler

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COUNSEL FOR DEFENDANTS
CITY NATIONAL BANK
CITY NATIONAL CORPORATION

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that David Gindler, counsel for City National Bank. and Rod Cooper, counsel for DataTreasury, conferred on June 16, 2006. DataTreasury does not oppose this motion.

/s/ David I. Gindler
David I. Gindler

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on June 16, 2006 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ David I. Gindler
David I. Gindler